

HOUSE BILL 1643

By Mumpower

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 5, relative to worker's compensation
rating appeals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-5-309(b), is amended by deleting the language "Every insurer" at the beginning of the first full sentence of the subsection and substituting instead, "Except for workers' compensation insurance, whether voluntary or otherwise, every insurer".

SECTION 2. Tennessee Code Annotated, Section 56-5-309, is further amended by adding the following as a new subsection (c) and by redesignating existing subsections appropriately:

(c)

(1) Any person aggrieved by the application of the worker's compensation rating system shall be heard by the insurer on written request to review the manner in which such rating system has been applied in connection with the insurance afforded. If the insurer fails to grant or reject such request within thirty (30) days, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the worker's compensation appeals board, which shall, after a hearing, affirm, modify, or reverse such action. Either party affected by the action of the appeals board may request, within thirty (30) days after written notice of such action, appeal to the commissioner. The provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall govern all matters and

procedures respecting the hearing and judicial review of any appeals to the commissioner, arising under this part.

(2) The Board shall consist of five (5) voting members and one (1) non-voting advisor as follows:

(A) One (1) member shall be from the department of labor and workforce development;

(B) One (1) member shall be from the Association of General Contractors;

(C) Three (3) members shall be from the private sector and shall be referred to as public members, as follows:

(i) At least one (1) public member shall be a private sector employer or a representative of a private sector employer located within the state of Tennessee;

(ii) At least one (1) public member shall be affiliated with a local chamber of commerce, small business federation or similar business association within the state of Tennessee;

(iii) At least one (1) public member shall be an employee of an insurance company, insurance broker, insurance agent, law firm, actuary, or any association of such entities;

(iv) No two (2) public members shall be affiliated with the same business organization, affiliated group, business league, or labor organization; and

(v) Two (2) members selected from the private sector shall be appointed by the commissioner of commerce and insurance

and one (1) by the commissioner of labor and workforce development; and

(D) The non-voting advisor shall be an employee from the National Council on Compensation Insurance (NCCI), with another salaried employee as an alternate.

(i) The NCCI representative shall attend each meeting of the appeals board, and shall serve as a technical and business resource. The representative should provide advice to the appeals board on issues relating to experience modification factors, classification assignments, and other rules. Such representative may participate in the discussion but shall have no vote in determining the appeal board's decisions.

(3) Each member's term on the appeals board shall be for three (3) years. The three (3) public members shall serve staggered terms. For the first term, one (1) public member shall be selected for a one-year term, one (1) member shall be selected for a two-year term, and one (1) shall be selected for a three-year term. The term of each appeals board shall commence on May 1 and expire on April 30 the following year.

(4) All meetings of the appeals board shall be held in the state of Tennessee. The appeals board shall meet either in person or by teleconference at the beginning of each term for purposes of electing a chair. The chair shall be responsible for organizing the agenda of each meeting and each hearing.

(5) The appeals board shall meet quarterly and in accordance with the provisions of state law.

(A) Upon receipt of a grievance, the hearing will be set on the next available hearing date unless that date is within ten (10) days of the next hearing,

then the hearing shall be scheduled at the next quarterly meeting, unless all parties agree otherwise.

(B) Written notice of hearing shall be provided to the appellant and the insurer within fifteen (15) days after receipt of the grievance, but not less than ten (10) days prior to the hearing.

(C) Hearings may not be held unless a quorum is present either in person or by teleconference. A quorum shall consist of a simple majority. The decision of the appeals board will be by majority vote of those members present at the hearing.

(6) Each decision shall be supported by a written memorandum stating the reasons for the decision, which memorandum shall be sent to both parties and to the insurance commissioner. Each appellant shall be advised of the appellant's rights of appeal and the procedure to be followed.

SECTION 3. This act shall take effect on July 1, 2007, the public welfare requiring it.